

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	SACV 18-1093-AG (AGRx)	Date	April 11, 2019
Title	Craig Cunningham v. Performance SLC LLC., et al.		

Present: The Honorable	Alicia G. Rosenberg, United States Magistrate Judge
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Karl Lozada

XTR 04/11/2019

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Jon B Fougner

Jeremy Eugene Branch
Alyson J Dykes

Proceedings: MINUTE ORDER RE DISCOVERY MOTIONS

Case is called. Counsel state their appearances.

Pursuant to the Order dated February 25, 2019 (Dkt. No. 33), the parties filed a Joint Stipulation in support of (1) Plaintiff's motion to compel re deposition of Mr. Crenshaw; (2) Plaintiff's motion for protective order re confidentiality designation; (3) Plaintiff's motion to quash subpoena to Republic Wireless, Inc.; and (4) Defendants' motion to compel re Plaintiff's income. (Dkt. No. 37.) The matter came on for hearing on April 11, 2019.

The court and counsel conferred as stated on the record. For the reasons stated on the record, IT IS ORDERED as follows:

1. Plaintiff's motion to compel a second deposition of Mr. Crenshaw is GRANTED. Mr. Crenshaw shall appear for a deposition on or before May 3, 2019 at a location, date and time to be mutually agreed by counsel.¹ The court reserves a ruling on the allocation of the costs of the deposition in the event counsel cannot agree after conferring on this question.

For guidance of the parties at the deposition, the court discussed the list of 37 questions contained in pages 7-10 of the Joint Stipulation. The court has numbered the list in

¹ The hearing on Defendants' motion to file supplemental pleading asserting counterclaim is set for hearing on April 29, 2019. Counsel advised that they would attempt to schedule the depositions of Mr. Crenshaw and another witness that week. The court notes that Plaintiff made four other compromise proposals on this motion. (Joint Stipulation (JS) at 12.) Plaintiff withdrew proposal number 3 and advised that proposal number 5 had already been agreed by the parties. Given that Plaintiff will have the opportunity to depose Mr. Crenshaw again, the remaining proposals are inappropriate.

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sequential order. The court would be inclined to permit about half the questions (nos. 6, 7, 9, 10, 13, 14, 16, 17, 21 (assuming the question calls for a question of Mr. Crenshaw's general duties), 26, 27, 28, 29, 31, 32, 33, 34, 35 and 36). Plaintiff should avoid asking duplicative questions to which Plaintiff has already received substantive answers at the first session of Mr. Crenshaw's deposition.

2. Plaintiff's motion for protective order is GRANTED IN PART AND DENIED IN PART. Plaintiff may designate Mr. Cunningham's answers at deposition regarding his tax returns as confidential. This order does not govern any future application to file such information under seal pursuant to Local Rule 79-5. The court denies Plaintiff's request to maintain the confidentiality designation to answers about the software application used by Plaintiff. Plaintiff has failed to satisfy the standards in Fed. R. Civ. P. 26(c) on this topic.

3. Plaintiff's motion to quash the subpoena to Republic Wireless, Inc., is GRANTED IN PART AND DENIED IN PART. The time frame for the subpoena is January 1, 2015 through December 31, 2017. Plaintiff may redact phone calls other than phone calls between Plaintiff and (a) Defendants or (b) any telemarketer. The existence of redactions shall be visible on the documents produced to Defendants so that Defendants can see that redactions have been made. Plaintiff shall make the production within 30 days after entry of this order. In all other respects, Plaintiff's motion is denied without prejudice.

4. Defendants' motion to compel is GRANTED IN PART AND DENIED IN PART. Within 14 days after entry of this order, Plaintiff shall provide his estimate of his income in the years 2016-2017 and what portion of that income came from TCPA lawsuits either won or settled. In all other respects, Defendants' motion is denied without prejudice.

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